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EXAMINER

SHELEHEDA, JAMES R

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 11/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/480,011

Applicant(s)

JERDING ET AL.

Examiner

James Sheleheda

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/23/00.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 10/23/04 was considered and submitted in the previous office action. Per applicant's request, another copy of this IDS is being provided.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 13, 16, 18, 20, 21 and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Matthews, III (Matthews) (5,874,985) (of record).

As to claim 13, Matthews discloses a method for receiving customizable multimedia messages over a television system at a communications terminal for presentation to a user (column 1, lines 9-12), comprising:

receiving a request at a communication terminal (column 6, lines 12-15) from a multimedia messaging server (application servers, 202a controlling messaging in control node, 12; column 6, lines 12-15 and column 7, lines 26-39) for presenting

message content to a user according to a message configuration (column 6, lines 44-47), wherein the request includes the message content (the message of text, audio or video; column 6, lines 14-25) and a message configuration expression (message format; column 6, lines 14-18); and

presenting the message content to a user according to the message configuration by the communications terminal (column 6, lines 48-53).

As to claim 16, Matthews discloses wherein the step of presenting the message content includes presenting message content consisting of ticker tape (scrolling text; Fig. 4B; column 5, lines 30-35 and column 6, lines 61-65).

As to claim 18, Matthews discloses wherein the step of presenting the message content includes presenting the message content at a preselected position on a display device (column 6, lines 18-21 and column 6, lines 48-53).

As to claim 20, Matthews discloses a system for providing customizable messages over a television system to a communications terminal for presentation to a user (Fig. 1; column 1, lines 9-12), comprising:

a multimedia messaging server (Fig. 1; service and application server 202a) that receives (based on decisions of an operator; column 2, lines 67-65, column 3, lines 1-5 and column 7, lines 35-39) a message configuration (column 6, lines 14-21) and associates message content (column 6, lines 21-25 and column 7, lines 35-39) for

presentation to a user according to the message configuration (column 6, lines 48-53) and generates a request including the message content and a message configuration expression (column 6, lines 12-18) for delivery over a television system to a communications terminal associated with the user (column 6, lines 30-37); and a multimedia messaging client (Fig. 1; controller 20) that receives the request (column 6, lines 44-47) and associates the message content and the message configuration for presentation of the message content according to the message configuration (column 6, lines 44-53).

As to claim 21, Matthews discloses wherein the message configuration expression comprises a location reference (identifying the message format in memory the set top is to retrieve; column 5, lines 60-67 and column 6, lines 44-47) that is utilized by the multimedia messaging client in retrieving the message configuration for use in presenting the message content by the communications terminal (column 6, lines 44-46).

As to claim 24, Matthews discloses wherein the multimedia messaging client (Fig. 2; controller 20) includes a client application (graphics subsystem, 72) and a configuration manager (CPU, 66), wherein the configuration manager provides the client application (column 6, lines 44-46 and column 4, lines 48-52) with the message configuration associated with the message content (column 5, lines 60-67 and column 6, lines 1-5).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3, 5-9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews in view of Hendricks et al. (Hendricks) (5,559,549) (of record).

As to claim 1, Matthews discloses a method for providing customizable multimedia messages over a television system to a communications terminal for presentation to a user (Fig. 1; column 1, lines 9-12), comprising:

creating a message request (column 5, lines 44-48 and column 6, lines 12-14) by a multimedia messaging server (application servers, 202a controlling messaging in control node, 12; column 6, lines 12-15 and column 7, lines 26-39) for presenting message content to a user according to the message configuration (column 6, lines 14-21), wherein the message request includes the message content (the message of text, audio or video; column 6, lines 14-25), and a message configuration expression (message format; column 6, lines 14-18); and

sending the message request from the multimedia messaging server (column 6, lines 12-15 and column 7, lines 26-39) to the communications terminal over the television system (column 6, lines 30-37).

While Matthews discloses creating a message configuration (wherein message formats were created and stored in memory, 68; column 5, lines 60-67), he fails to specifically disclose an application server creating the configuration.

In an analogous art, Hendricks discloses a digital television distribution system (Fig. 1; column 2, lines 61-65) wherein an application server (operations center, 202; Fig. 1) will generate and transmit message content (text messages; column 11, lines 27-34 and column 3, lines 36-38) and configuration information (control data for how all signals are to be handled; column 3, lines 36-44) to multimedia servers (remote headends; column 3, lines 32-44) which then configure the information for transmission to subscriber terminals (column 3, lines 52-64) for the advantage of allowing the altering/updating of information transmitted throughout regions of the country (column 3, lines 38-44).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthew's system to include an application server creating the configuration, as taught by Hendricks, for the advantage of allowing a single server to control the altering/updating of information transmitted throughout different regions of the country by local servers.

As to claim 3, Matthews and Hendricks disclose wherein the step of creating the message request includes a step of including a message configuration expression (see Matthews at column 6, lines 12-18 and lines 44-47) that comprises a location reference to the message configuration (identifying the corresponding message format in memory

the set top is to retrieve; see Matthews at column 5, lines 60-67 and column 6, lines 44-47).

As to claim 5, Matthews and Hendricks disclose delivering the message configuration to the communications terminal prior to the step of sending the request (see Matthews at Fig. 2; column 5, lines 60-67 and column 6, lines 44-47).

As to claim 6, Matthews and Hendricks disclose wherein the step of creating the message request includes creating textual content as at least a portion of the message content (see Matthews at column 6, lines 21-25).

As to claim 7, Matthews and Hendricks disclose wherein the step of creating the message request includes creating audio content as at least a portion of the message content (see Matthews at column 6, lines 21-25).

As to claim 8, Matthews and Hendricks disclose wherein the step of creating the message request includes graphical content as at least a portion of the message content (see Matthews at column 6, lines 1-5 and lines 21-25).

As to claim 9, Matthews and Hendricks disclose wherein the step of creating the message request includes message creating content consisting of a ticker tape (see Matthews at scrolling text; Fig. 4B; column 5, lines 30-35).

As to claim 11, Matthews and Hendricks disclose wherein the step of creating the message request includes providing a relative positioning of the message content on a display device (see Matthews at column 6, lines 18-21).

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews and Hendricks as applied to claim 1 above, and further in view of LaJoie et al. (LaJoie) (5,850,218) (of record).

As to claim 10, while Matthews and Hendricks disclose the creation of a message request for the presentation of the message content, they fail to specifically disclose wherein the message request includes providing a force interface device on command.

In an analogous art, LaJoie discloses a full service cable system (Fig. 1) incorporating message transmission over the cable network (column 33, lines 31-36) wherein the message is configured to include a command to force a set top terminal and television to turn on (column 33, lines 47-50) for the advantage of alerting subscribers to important information even when they are not actively watching their televisions (column 33, lines 50-54).

Consequently, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthews and Hendricks' system to include wherein the message request includes providing a force interface device on command,

as taught by Lajoie, for the advantage of alerting subscribers to important information when they are not actively watching television.

7. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews as applied to claim 13 above, and further in view of LaJoie.

As to claim 17, while Matthews discloses presenting the message content, he fails to include forcing an interface device on for presentation of the message content.

In an analogous art, LaJoie discloses a full service cable system (Fig. 1) incorporating message transmission over the cable network (column 33, lines 31-36) wherein the message is configured to include a command to force a set top terminal and television to turn on to display a message (column 33, lines 47-50) for the advantage of alerting subscribers to important information even when they are not actively watching their televisions (column 33, lines 50-54).

Consequently, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthew's system to include forcing an interface device on for presentation of the message content, as taught by Lajoie, for the advantage of alerting subscribers to important information when they are not actively watching television.

8. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews and Hendricks as applied to claim 1 above, and further in view of Hashimoto et al. (Hashimoto) (5,931,905) (of record).

As to claim 12, while Matthews and Hendricks disclose the creation of a message configuration for the presentation of the message content, they fail to specifically disclose wherein the message configuration includes providing an originator identifier.

In an analogous art, Hashimoto discloses a TV mail system (Fig. 1) incorporating message transmission over the cable network (column 1, lines 58-62) wherein the messages are configured to include an identification of the sender of the message (Fig. 7; column 5, lines 64-65). This allows subscribers to easily identify from whom they are receiving electronic messages (Figs. 4 and 10B; column 11, lines 14-21 and column 12, lines 14-17).

Consequently, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthews and Hendricks' system to include wherein the message configuration includes providing an originator identifier, as taught by Hashimoto, for the advantage allowing subscribers to easily identify from whom they are receiving electronic messages by including an originator identifier in the existing message format.

9. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews as applied to claim 13 above, and further in view of Hashimoto.

As to claim 19, while Matthews discloses the step of presenting the message content, he fails to specifically disclose displaying a representation of an originator of the request.

In an analogous art, Hashimoto discloses a TV mail system (Fig. 1) incorporating message transmission over the cable network (column 1, lines 58-62) wherein received messages are configured to display an identification of the sender of the message (Fig. 7; column 5, lines 64-65). This allows subscribers to easily identify from whom they are receiving electronic messages (Figs. 4 and 10B; column 11, lines 14-21 and column 12, lines 14-17).

Consequently, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthews' system to include displaying a representation of an originator of the request, as taught by Hashimoto, for the advantage allowing subscribers to easily identify from whom they are receiving electronic messages by including an originator identifier in the existing message format.

10. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews and Hendricks as applied to claim 1 above, and further in view of Tanaka (US2003/0115600).

As to claim 4, while Matthews and Hendricks discloses the delivering of the message configuration to the communications terminal, they fail to specifically disclose wherein the message configuration is delivered from a location associated with the location reference.

In an analogous art, Tanaka discloses a television broadcast system (Fig. 1) wherein detailed information relating to a program or other data (paragraph 142, lines 1-8) is retrieved from a server based upon address information transmitted to the receiver

(paragraph 9 and paragraph 10, lines 4-10), for the advantage of allowing the use of a receiver without an large storage means (paragraph 8 and paragraph 11).

Consequently, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthews and Hendricks' system to include wherein the message configuration is delivered from a location associated with the location reference, as taught by Tanaka, for the advantage of allowing the use of a receiver without an large storage means in the current message transmission system.

11. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews as applied to claim 13 above, and further in view of Tanaka (US2003/0115600).

As to claim 14, while Matthews discloses retrieving the message configuration utilizing the message configuration expression, wherein the message configuration expression comprises a location reference (identifying the message format in memory the set top is to retrieve; column 5, lines 60-67 and column 6, lines 44-47), he fails to disclose retrieving the message configuration from a remote location.

In an analogous art, Tanaka discloses a television broadcast system (Fig. 1) wherein detailed information relating to a program or other data (paragraph 142, lines 1-8) is retrieved from a remote server based upon address information transmitted to the receiver (paragraph 9 and paragraph 10, lines 4-10), for the advantage of allowing the use of a receiver without an large storage means (paragraph 8 and paragraph 11).

Consequently, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthews' system to include retrieving the message configuration from a remote location, as taught by Tanaka, for the advantage of allowing the use of a receiver without an large storage means in the current message transmission system.

12. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews and Hendricks as applied to claim 1 above, and further in view of Jennings (5,781,186) (of record).

As to claim 2, while Matthews and Hendricks disclose wherein the step of creating the request includes a step of including a message configuration expression, they fail to specifically disclose wherein the message configuration expression comprises the message configuration.

In an analogous art, Jennings discloses a multimedia messaging system (Fig. 1; column 1, lines 7-8) wherein a created message contains components of both the message (column 1, lines 63-67) and presentation components (which determine how the message is displayed; column 2, lines 1-4) for the advantage of enabling a message to specify exactly how it should be presented without the need for any additional programming or equipment (column 2, lines 25-40).

Consequently, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthews and Hendricks' system to include wherein the message configuration expression comprises the message configuration,

as taught by Jennings, for the advantage of enabling a message to specify exactly how it should be presented without the need for any additional programming or equipment to be incorporated into the existing messaging system.

13. Claims 15 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews as applied to claims 13 and 20 above, and further in view of Jennings.

As to claim 15, while Matthews discloses wherein the step of presenting the message content includes presenting the message content according to the message configuration expression, he fails to specifically disclose wherein the message configuration expression comprises the message configuration.

In an analogous art, Jennings discloses a multimedia messaging system (Fig. 1; column 1, lines 7-8) wherein the presentation of messages is determined by presentation components contained within the message itself (column 1, lines 63-67 and column 2, lines 1-4) for the advantage of enabling a message to specify exactly how it should be presented without the need for any additional programming or equipment (column 2, lines 25-40).

Consequently, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthews' system to include wherein the message configuration expression comprises the message configuration, as taught by Jennings, for the advantage of enabling a message to specify exactly how it should be presented without the need for any additional programming or equipment to be incorporated into the existing messaging system.

As to claim 22, while Matthews discloses a message configuration expression for use in presenting the message content by the communication terminal, he fails to specifically disclose wherein the message configuration expression comprises the message configuration.

In an analogous art, Jennings discloses a multimedia messaging system (Fig. 1; column 1, lines 7-8) wherein the presentation of messages is determined by presentation components contained within the message itself (column 1, lines 63-67 and column 2, lines 1-4) for the advantage of enabling a message to specify exactly how it should be presented without the need for any additional programming or equipment (column 2, lines 25-40).

Consequently, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthews' system to include wherein the message configuration expression comprises the message configuration, as taught by Jennings, for the advantage of enabling a message to specify exactly how it should be presented without the need for any additional programming or equipment to be incorporated into the existing messaging system.

14. Claim 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews in view of Hendricks and Freeman (6,020,980) (of record).

As to claim 25, Matthews discloses a system for delivery of multimedia messages, comprising:

a multimedia messaging server (service and application servers, 202a) which generates a request (column 7, lines 35-39) that comprises message content (the message of text, audio or video; column 6, lines 14-25 and column 7, lines 35-39) and a message configuration expression (message format; column 6, lines 14-18).

While Matthews discloses a message configuration, he fails to specifically disclose an application server that generates message content and a database of predefined message configurations and wherein the application server delivers the message content and at least one of the database of predefined message configurations to the multimedia messaging server.

In an analogous art, Hendricks discloses a digital television distribution system (Fig. 1; column 2, lines 61-65) wherein an application server (operations center, 202; Fig. 1) will generate and transmit message content (text messages; column 11, lines 27-34 and column 3, lines 36-38) and configuration information (control data for how all signals are to be handled; column 3, lines 36-44) to multimedia messaging servers (remote headends; column 3, lines 32-44) which then configure the information for transmission to subscriber terminals (column 3, lines 52-64) for the typical benefit of allowing the altering/updating of information transmitted throughout regions of the country (column 3, lines 38-44).

Additionally, in an analogous art, Freeman discloses a communication system (Fig. 1) wherein a server (fax server, 122) will receive message content to be transmitted (column 8, lines 30-32) and contact a database (subscriber directory, 126) of predefined message configurations (column 8, 33-36 and lines 43-51) to determine

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the correct file configuration for a particular subscriber (column 8, lines 7-14 and lines 30-36) for the typical benefit of choosing the correct message format in a system ensuring subscribers receive their messages in the format they desire (column 3, lines 23-30).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthew's system to include an application server that generates message content and message configurations and wherein the application server delivers the message content and at least one predefined message configuration to the multimedia messaging server, as taught by Hendricks, for the typical benefit of allowing a single server to control the altering/updating of information transmitted throughout different regions of the country by local servers.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthew and Hendrick's system to include a database of predefined message configurations, as taught by Freeman, for the typical benefit of choosing the correct message format to ensure subscribers receive messages in their preferred format.

As to claim 26, Matthews, Hendricks and Freeman disclose wherein the message configuration expression comprises a location reference (identifying the message format in memory the set top is to retrieve; see Matthews at column 5, lines 60-67 and column 6, lines 44-47).

15. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, Hendricks and Freeman as applied to claim 25 above, and further in view of Jennings.

As to claim 27, while Matthews, Freeman and Hendricks disclose a message configuration expression, they fail to specifically disclose wherein the message configuration expression comprises the message configuration.

In an analogous art, Jennings discloses a multimedia messaging system (Fig. 1; column 1, lines 7-8) wherein a created message contains components of both the message (column 1, lines 63-67) and presentation components (which determine how the message is displayed; column 2, lines 1-4) for the advantage of enabling a message to specify exactly how it should be presented without the need for any additional programming or equipment (column 2, lines 25-40).

Consequently, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthews, Freeman and Hendrick's system to include wherein the message configuration expression comprises the message configuration, as taught by Jennings, for the advantage of enabling a message to specify exactly how it should be presented without the need for any additional programming or equipment to be incorporated into the existing messaging system.

16. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews as applied to claim 20 above, and further in view of Freeman.

As to claim 23, while Matthews discloses the selection of a message configuration by the multimedia server, he fails to specifically disclose a database of message configurations accessible by the messaging server.

In an analogous art, Freeman discloses a communication system (Fig. 1) wherein a server (fax server, 122) will receive message content to be transmitted (column 8, lines 30-32) and contact a database (subscriber directory, 126) of predefined message configurations (column 8, 33-36 and lines 43-51) to determine the correct file configuration for a particular subscriber (column 8, lines 7-14 and lines 30-36) for the typical benefit of choosing the correct message format in a system ensuring subscribers receive their messages in the format they desire (column 3, lines 23-30).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Matthew's system to include a database of predefined message configurations accessible by the messaging server, as taught by Freeman, for the typical benefit of choosing the correct message format to ensure subscribers receive messages in their preferred format.

Response to Arguments

17. Applicant's arguments filed 07/06/04 have been fully considered but they are not persuasive.

- a. As to applicant's arguments on page 8 of the response that Matthews does not disclose "creating a message configuration by an application server", this argument is moot in view of the new rejections above.

b. On page 9, paragraph 1 of applicant's response, applicant argues that "Matthews servers do not create a message request for presenting message content to a user according to a message configuration."

In response, Matthews discloses creating and transmitting a "message signal" for presenting message content to a user (column 6, lines 12-29) according to a corresponding message "format" (column 6, lines 12-18 and lines 44-47).

c. On page 9, paragraph 3 of applicant's response, applicant argues that "Nowhere does Matthews disclose a server creating a message request according to a message configuration."

In response,

1) applicant is directed to the fact that the language of claim 1 calls for creating a **message request for presenting content to a user according to the message configuration**, not for creating the message request according to a message configuration.

2) Matthews discloses wherein the message request (message signal) includes format information indicating the format in which the message is to be displayed (column 6, lines 12-18 and lines 44-47).

d. On page 9, paragraph 3 of applicant's response, applicant further argues that "Matthews further does not disclose that the message request includes message content and a message configuration expression."

In response, Matthews explicitly discloses wherein the message signal includes both the message content (text, audio etc...; column 6, lines 14-18 and lines 21-25) and format information on how the content should be displayed (column 6, lines 14-21 and lines 44-47).

e. On page 10, paragraph 2 of applicant's response, applicant argues that "Matthews servers do not create a message request for presenting message content to a user according to a message configuration."

In response, Matthews discloses creating and transmitting a "message signal" for presenting message content to a user (column 6, lines 12-29) according to a corresponding message "format" (column 6, lines 12-18 and lines 44-47).

f. As to claim 25, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

More specifically, on page 12, paragraph 3 of applicant's response, applicant argues that "Hendricks fails to disclose teach or suggest the feature of an application server that generates message content and a database of predefined message configurations."

In response, applicant is directed to the rejection of claim 25 above wherein it is clearly indicated that while Hendricks is relied upon to teach an application server that generates message content and delivers it to a messaging server (see rejection above), it was never suggested he explicitly taught the feature of a database of predefined message configurations. It is the Freeman reference which teaches the use of this database.

g. On page 14, paragraph 2, applicant argues that "Hendricks operation center does not generate a database of predefined message configurations and so Hendricks remote headend cannot receive a message configuration as recited in claim 25."

In response, as indicated above, Hendricks was never relied upon to teach the use of a configuration database. Hendricks operation center, however, does disclose creating message configurations which are transmitted to the remote headend (see rejection of claim 25 above).

h. On page 14, paragraph 2, applicant further argues that "Hendricks remote headend further cannot generate a request in response to the received message

configuration, wherein the request comprises message content and a message configuration expression, as recited in claim 25.”

In response,

1) As recited in the rejection of claim 25 above, the Hendricks remote headend does indeed generate a request in response to the received message configuration.

2) Applicant is directed to the rejection of claim 25 above wherein it is clearly indicated that while Hendricks is relied upon to teach an application server that generates message content and delivers it to a messaging server (see rejection above), it was never suggested he explicitly taught the wherein the request comprises message content and a message configuration expression. The Matthews reference discloses the details of the message request.

i. On page 14, paragraph 3 and further on page 15, paragraph 3, applicant argues that Freeman fails to disclose an application server that generates a database of predefined message configurations and a multimedia messaging server that generates a request based on the message configuration.

In response, Applicant is directed to the rejection of claim 25 above wherein it is clearly indicated that Freeman was relied upon to teach the creation and use of a database of predefined message configurations and a motivation to do so. It is the combined system of Matthews and Hendricks which teaches an application server that generates a predefined message configuration and a

multimedia messaging server that generates a request based on the message configuration.

j. On page 15, paragraph 4, applicant argues that since Matthews, Freeman and Hendricks fail to individually teach the features of claim 25, that the combination of Matthews, Freeman and Hendricks also fails to teach the claimed features.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

As indicated in the rejection of claim 25 above, it is clearly indicated that while Matthews, Freeman and Hendricks each fail to individually teach all of the claimed features, the three references in combination would in fact disclose all of the features recited in claim 25.

Conclusion

18. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

19. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Sheleheda whose telephone number is (703) 305-8722. The examiner can normally be reached on 9:00-5:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (703) 305-4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

James Sheleheda
Patent Examiner
Art Unit 2614

JS



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